

REMARKS AND ARGUMENTS

By action taken here, Applicant in no way intends to surrender any range of equivalents beyond that needed to patentably distinguish the claimed invention as a whole over the prior art. Applicant expressly reserves all such equivalents that may fall in the range between Applicant's literal claim recitations and combinations taught or suggested by the prior art.

I. Introduction

The Restrictions Requirements mailed December 7, 2005 has been removed in accordance with Examiner's Summary of Interview attached hereto and incorporated herein by reference. Specifically, Applicant argued that the claims subject to restriction were generic and the claimed embodiments did not, therefore, represent patentably distinct inventions. The Examiner agreed and removed the requirement.

Applicant respectfully traverses the rejections of record on the grounds that the Engelke et. al reference constitutes an example of the prior art Applicant's invention overcomes. As set out in the interview with the Examiner on January 3, 2006, Engelke et. al. is directed to a nozzled system for planting seeds. (Col. 4, lines 55-57). Applicant's specification, in the Field of the Invention, specially sets out that Applicant's invention relates to "... agriculture chemical dispensing systems for nozzle-less, uniform, direct delivery of liquid agriculture chemicals to the soil." (¶0001). This is a so called "drip system" that does not employ nozzles, high pressure feed, or complex valveing as clearly set out in Applicant's specification.

In accordance with the agreement reached with the Examiner during the January 3, 2006 interview, Claims 1, 10 and 15 have been amended by this amendment to recite that the planer surface is disposed within the base of the inlet substantially perpendicular to the fluid flow. This amendment incorporates the limitations now found in allowed claim 24; and, presents a further distinction over Engelke et. al.

II. Specific Rejection of the Claims

The Examiner rejected Claims 1-7 and 10-12 under 35 U.S.C. 102(b) as being anticipated by Engelke et al. Claims 8, 9, and 13-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Engelke et al.

III. Arguments

The rejection of Claims 1-7 and 10-12 as being anticipated by Engelke et. al. is respectfully traversed. The requirements to show a § 102(b) anticipatory rejection are well founded. To anticipate a claim, the reference must teach every element of the claim. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q. 2d 1051, 1053 (Fed. Cir. 1987) (emphasis added); MPEP 2131. In addition, the identical invention must be shown in as complete detail as is contained in the Applicants' claim. *Richardson v. Suzuki Co.*, 868 F.2d 1226, 1236.

It is respectfully submitted that Engelke et al. is directed to a pressurized, nozzled liquid injection system for injection of turf seed beneath the soil at a pre-determined depth. The spray patterns are determined by nozzle orifice shape and are selected to provide a knife slit-like opening or trench in the crown of the turf. (See Figures 4, 5, and 6)

First, this reference is not related to disbursement of an agrichemical stream contrary to the assertion by the Examiner. The device is a planter for grass seed. Second, this is a high pressure nozzled device as opposed to the "drip system" claimed by Applicant. Specifically, in the SUMMARY OF THE INVENTION, col. 4 lines 59-64, Engelke et. al. states,

"Provides a seed-planting system including machinery having an accumulator for storing a seed-fluid mixture under pressure coupled to a nozzle. The machine further contains a pump for increasing the pressure of the seed-fluid mixture and a mechanism for regulating the flow of the seed-fluid mixture from the accumulator to the nozzle."(Emphasis added)

Thus, the control mechanism of Engelke et al. is the nozzle backpressure and complex valveing systems contrary to Applicant's disclosed and claimed invention. (See Applicant's specification ¶0007).

Moreover, Figure 3 of Engelke et al., referenced by the Examiner as anticipatory, is, in fact, the well known manifold distribution unit. This prior art manifold is described by Applicant in FIG. 2 of Applicant's specification. Specifically, this manifold is designed to work with pressure nozzles to get uniform distribution and, further, is not "a device, wherein the input and the output nozzles are radially disposed one to the other and, "...said fluidic substance flowing into said inlet, under pressure, impinges said planar surface and is radially dispersed to provide substantially equal, divided fluid streams exiting the manifold by means of said exit ports."

Thus, Applicant uniformly distributes the material (not seed) by the communication of inlet ports in disbursing fluid entering the inlet by substantially perpendicular impingement on

the planer surface to radially disburse the fluidic substance in substantially equally divided fluid streams. No nozzle or valveing is used for uniform distribution contrary to Engelke et. al.

Moreover, as amended, Claim 1 now incorporates the structural limitation originally found in Claim 24 relating to the physical angular relationship of the inlet to the exit ports in relation to the planer surface, such that the radial disposition is substantially at right angles to the fluid flow after impingement on the planer surface.

It is respectfully submitted that the argument advanced by the Examiner under 35 U.S.C. 103(a) is likewise overcome by the argument and amendments to the claims, as fully set forth above, since no combination of Engelke et al and other art can yield Applicant's claimed invention.

Applicant's Attorney further submits that in light of the above arguments and amendments, advanced in said January 3, 2006 interview that the Examiner is in accord that the amended Claims overcome the art of record; and, that the application is now in condition for allowance.

IV. Conclusion

It is respectfully submitted that amended independent claims 1, 10 and 15 and the dependent claims dependent thereon are now allowable over Engelke et al. for the reasons set forth above and claims 24-26 have previously been allowed as originally written. Therefore, all claims are now in condition for allowance. Early and favorable action is respectfully requested.


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